

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

HEATHER LUCAS, on behalf of herself and similarly situated employees,	:	
	:	
Plaintiff,	:	1:20-cv-00029
	:	
v.	:	
	:	
HEARTFELT HOME HEALTHCARE, INC.,	:	
Defendant.	:	
	:	

STIPULATION AND ORDER

Plaintiff Heather Lucas (“Plaintiff”) and Defendant Heartfelt Home Healthcare, Inc. (“Defendant”) hereby **STIPULATE** as follows:

1. The following Fair Labor Standards Act (“FLSA”) collective is conditionally certified pursuant to 29 U.S.C. § 216(b): **All individuals who, during any week since January 31, 2017, have been employed by Defendant, paid an hourly wage, and not paid overtime premium compensation for all hours worked over 40 in a week.** Individuals falling within this definition are referred to as “Putative Collective Members.”
2. Plaintiff will not pursue her Pennsylvania Minimum Wage Act (“PMWA”) claim as a class action claim under Federal Rule of Civil Procedure 23. Based upon a deposition of Defendant taken pursuant to Federal Rule of Civil Procedure 30(b)(6), the parties have determined that the proposed PMWA class in Plaintiff’s Complaint, see Doc. 1 at ¶¶ 16, 18-26, will not satisfy the numerosity requirement of Federal Rule of Civil Procedure 23(a)(1).
3. However, Plaintiff and any Putative Collective Members who join this case pursuant to 29 U.S.C. § 216(b) will continue to assert PMWA claims, and the limitations period applicable to such PMWA claims is tolled as of January 31, 2017.

4. In agreeing to conditional certification, Defendant does not waive any future arguments. For example, Defendant reserves its right to move at some later time to decertify the FLSA collective or to otherwise argue that collective litigation is wholly or partially inappropriate.

5. Within seven (7) calendar days of the Court's entry of this Order, Defendant's counsel will email to Plaintiff's counsel an Excel spreadsheet containing the name and last known mailing address of each Putative Collective Member.

6. Within fourteen (14) calendar days of the Court's entry of this Order, Plaintiff's counsel will mail to all Putative Collective Members finalized copies of the attached "Notice of Collective Action Lawsuit" form, the attached "Consent to Join" form, and a postage-paid return envelope bearing Plaintiff's counsel's address (collectively the "Notice Package"). Plaintiff's counsel will pay all postage and printing costs associated with the preparation and mailing of the Notice Packages. If any Notice Package is returned as undeliverable, Plaintiff's counsel will make all reasonable efforts to update the address information and re-send the Notice Package.

7. In order to join the FLSA collective pursuant to 29 U.S.C. § 216(b), a Putative Collective Member must complete his/her Consent Form and return it in an envelope postmarked on or before the deadline indicated in the Notice Package, which will be set at forty-five (45) calendar days after the initial mailing date. Plaintiff's counsel will file with the Court each completed Consent Form within two (2) business days of receipt.

8. Within seventy (70) calendar days of the Court's entry of this Order, the parties will provide the Court with a proposed schedule for the remainder of this litigation.

9. Discovery is **STAYED** pending the completion of the above-described notice and opt-in process.

FOR PLAINTIFF:

/s/ R. Andrew Santillo
Winebrake & Santillo, LLC

July 30, 2020
Date

FOR DEFENDANT:

/s/ Thomas H. May (with permission)
Dickie, McCamey & Chilcote, P.C.

July 30, 2020
Date

SO ORDERED BY THE COURT:

s/ W. Scott Hardy
W. Scott Hardy
U.S. District Judge

September 28, 2020
Date

August __, 2020

NOTICE OF COLLECTIVE ACTION LAWSUIT

Heather Lucas et al. v. Heartfelt Home Healthcare, Inc., 20-cv-00029-SPB
United States District Court, Western District of Pennsylvania

TO: *[INSERT NAME]*

INTRODUCTION

This Notice tells you about a lawsuit seeking unpaid wages allegedly owed to hourly homecare and healthcare workers employed by Heartfelt Home Healthcare, Inc. (“Heartfelt”) since January 31, 2017. You have a right to participate in the lawsuit.

DESCRIPTION OF THE LAWSUIT

The lawsuit alleges that Heartfelt has failed to pay the correct amount of extra overtime premium compensation when hourly homecare employees worked over 40 hours in a week.

Heartfelt denies that it violated any laws and asserts that all of its hourly homecare employees were paid based on a good faith belief that they were being properly compensated.

The Judge has not yet decided who will win.

RETALIATION PROHIBITED

If you join the lawsuit, federal law prohibits Heartfelt from retaliating against you as a result of your participation.

HOW TO JOIN THE LAWSUIT

Whether or not to join the lawsuit is entirely up to you. If you wish to join, you must complete the enclosed “Consent to Join” form and return it (preferably in the enclosed envelope) to:

Winebrake & Santillo, LLC
715 Twining Road, Suite 211
Dresher, PA 19025
Fax: (215) 844-2492
Email: asantillo@winebrakelaw.com

Your return envelope must be postmarked by **insert 45 days after mailing**.

EFFECT OF JOINING THE LAWSUIT

If you join the lawsuit, you will be bound by the Court's rulings on all issues, including the reasonableness of any settlement. If Ms. Lucas and other hourly homecare employees win, you may be eligible for a money payment. If Heartfelt wins, you will receive nothing.

EFFECT OF NOT JOINING THE LAWSUIT

If you do not join the lawsuit, you will not be affected by any judgment or settlement resulting from the lawsuit, whether it is favorable or unfavorable.

YOUR LEGAL REPRESENTATION IF YOU JOIN

If you join the lawsuit, you will be represented by Winebrake & Santillo, LLC, 715 Twining Road, Suite 211, Dresher, PA 19025 (unless and until you retain your own lawyer who enters his or her appearance in the lawsuit on your behalf). The firm's website is www.winebrakelaw.com, and its phone number is (215) 884-2491.

You are not required to pay any fees to this law firm. The firm has taken this case on a "contingency" basis. If the lawsuit is unsuccessful, the firm will receive nothing. If the lawsuit results in a recovery, the firm will ask the Judge to award legal fees separate and apart from your individual recovery.

Please call the above law firm if you have any questions or desire any additional information about the lawsuit.

THIS NOTICE HAS BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA. THE COURT HAS TAKEN NO POSITION REGARDING THE LAWSUIT'S MERITS.

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FOR THE WESTERN DISTRICT OF PENNSYLVANIA

HEATHER LUCAS, on behalf of herself and
similarly situated employees,

Plaintiff,

v.

HEARTFELT HOME HEALTHCARE, INC.,

Defendant.

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CONSENT TO JOIN

I consent to become a party plaintiff in this action pursuant to 29 U.S.C. § 216(b). I agree to be represented by Winebrake & Santillo, LLC. I understand that I will be bound by the judgment of the Court on all issues in this action including the fairness of any settlement.

Signature

Date

Name (Please Print Neatly)

Address

City, State, Zip Code

Phone Number

Email Address

RETURN IN ENVELOPE POSTMARKED BY [INSERT 45 DAYS FROM MAILING DATE] AND ADDRESSED TO:

Winebrake & Santillo, LLC
715 Twining Road, Suite 211
Dresher, PA 19025
Fax: (215)-844-2492/Email: asantillo@winebrakelaw.com